

**CITY OF LAKE STEVENS  
Lake Stevens, Washington**

**RESOLUTION NO. 2007-9**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE STEVENS,  
WASHINGTON, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY  
AND L116-1 NOURSE, LLC, PURSUANT TO RCW 36.70B.200.**

WHEREAS, the Legislature, through RCW Sections 36.70B.170 through .210 has authorized the City to enter into development agreements; and

WHEREAS, Owner owns approximately 70.10 acres within the City of Lake Stevens, legally described as set forth in the attached Development Agreement (the "Nourse Property"); and

WHEREAS, Owner wishes to develop the Nourse Property for 288 single family detached residences; and

WHEREAS, in authorizing development agreements pursuant to RCW Sections 36.70B.170-210, the Legislature found that the lack of certainty in the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers, and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public; and

WHEREAS, the execution of a development agreement is a proper exercise of the City police power and contractual authority, in order to ensure development that is consistent with the Comprehensive Plan and with applicable development regulations adopted by the City as part of its authority to plan under Chapter 36.70A RCW, and to mitigate the impacts of such development; and

WHEREAS, the City held a public hearing on March 26, 2007, to consider the Development Agreement attached hereto as Exhibit A, and the City Council has determined that it is in the public interest to approve the Development Agreement, consistent with RCW 36.70B.200;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE STEVENS AS FOLLOWS:

Section 1. The Development Agreement between the City of Lake Stevens and L116-1 Nourse, LLC, which is attached hereto as Exhibit A, is hereby approved.

Section 2. Severability.  
If any section, sentence, clause or phrase of this resolution should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

Section 3. Effective Date.  
This resolution shall take effect immediately upon passage by the Lake Stevens City Council.

PASSED by the City Council and APPROVED by the Mayor this 26th day of March,  
2007.

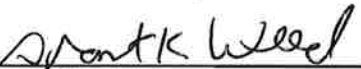
CITY OF LAKE STEVENS

By   
Vern Little, MAYOR

Attest:

By   
Norma Scott, CITY CLERK

Approved as to from:

By   
Grant K. Weed, CITY ATTORNEY

RECEIVED

JUL 19 2007

CITY OF LAKE STEVENS

**Return Address:**

City Clerk  
Lake Stevens City Hall  
1812 Main Street  
P.O. Box 257  
Lake Stevens, Washington 98258



200706140102 43 PGS  
06/14/2007 9:36am \$74.00  
SNOHOMISH COUNTY, WASHINGTON

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

**Document Title(s)** (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Development Agreement

**Reference Number(s) of Documents assigned or released:** N/A

**Grantor(s)** (Last name, first name, initials)

1. L-116 Nourse, LLC, a Washington limited liability company

**Grantee(s)** (Last name first, then first name and initials)

1. City of Lake Stevens, a Washington municipal corporation

**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range)

SEC 06 TWP 29 RGE 06  
Legal description is attached as "Exhibit A" to this document. - See Pages 5-8 for additional  
legals

**Assessor's Property Tax Parcel/Account Number:** 29060600403300, 29060600403200,  
29060600403100, 29060600403000, 29060600402900, 29060600402901, 29060600402800, 29060600403600,  
00385700200100, 29060600200900, 29060600300500, 29060600302200, 29060600300400, 29060600302500,  
29060600302600, 29060600301800, 29060600301700, 00385700500101

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

## Development Agreement

This Development Agreement ("Development Agreement" or "Agreement") is entered into this 25<sup>th</sup> day of April, 2007 by and between the City of Lake Stevens, Washington, a Washington municipal corporation (the "City"), and L116-1 Nourse, LLC, a Washington limited liability company ("Owner").

WHEREAS, the Legislature, through RCW Sections 36.70B.170 through .210 has authorized the City to enter into a development agreements; and

WHEREAS, Owner owns approximately 70.10 acres within the City of Lake Stevens, legally described as set forth in the attached Exhibit A (the "Nourse Property"); and

WHEREAS, Owner wishes to develop the Nourse Property for 288 single family detached residences; and

WHEREAS, in authorizing development agreements pursuant to RCW Sections 36.70B.170-210, the Legislature found that the lack of certainty in the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers, and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public; and

WHEREAS, the execution of a development agreement is a proper exercise of the City police power and contractual authority, in order to ensure development that is consistent with the Comprehensive Plan and with applicable development regulations adopted by the City as part of its authority to plan under Chapter 36.70A RCW, and to mitigate the impacts of such development; and

WHEREAS, the City held a public hearing on March 26, 2007, to consider this Development Agreement, and the City Council adopted Resolution No. 2007-9, approving this Development Agreement, consistent with RCW 36.70B.200; and

WHEREAS, after due consideration of the terms of this agreement and public hearing, the City and Owner have agreed to enter into this Development Agreement, which shall be used to establish the appropriate zoning and preliminary development plan for the Nourse Property;

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein, and other good and valuable consideration, the sufficiency of which is hereby mutually acknowledged, the City and Owner agree as follows:

1. The Owner agrees to comply with all terms of the City of Lake Stevens Ordinance 719, dated January 12, 2006, relating to the Greenspace-CAM West Annexation, which Ordinance is attached hereto as Exhibit B and incorporated herein as if set forth in full. The terms of the annexation and Multi-Family Residential zoning on the L116-1 Nourse, LLC property are

specifically set forth in Exhibit B at pages 11-12, section 7, sub (a)-(d). The Owner agrees to comply with all such terms.

2. Per the Lake Stevens Hearing Examiner report for a Conditional Use Permit on the L116-1 Nourse, LLC project ("CUP"), the Owner agrees to all conditions (#1-28) of the Hearing Examiner Theodore Paul Hunter approval signed Feb 1, 2007, attached hereto as Exhibit C and incorporated herein by this reference. The Owner also agrees to all conditions (#1-8) of the October 18, 2006 Determination of Nonsignificance by Responsible Official Rebecca Ableman, attached hereto as Exhibit D and incorporated herein by this reference.
3. Except as otherwise specifically provided herein, Owner shall comply with all City ordinances, regulations, development standards and policies in effect at the time the complete CUP application was submitted to the City, provided that if relevant ordinances, regulations, development standards and policies are modified prior to approval of the related permits, the Owner may, at its option, elect to comply with the newer requirements without changing their vesting date for the remainder of the applicable regulations. Owner shall be subject to all pertinent impact fee requirements, including parks, transportation and school impact fees, which shall not vest and may be modified by the City at any time. Pursuant to RCW 36.70B.170(4), this Development Agreement shall reserve authority for the City to impose new or different regulations to the extent required by a serious threat to the public health and safety.
4. This Development Agreement shall be effective for a term of 5 years following the date of execution. Upon expiration of such period, this Development Agreement shall automatically terminate.
5. Unless terminated in accordance with the provisions hereof, or amended in writing by a document signed by all parties hereto, this Development Agreement is enforceable during its term by any party to the Development Agreement. Thereafter, this Development Agreement is enforceable with respect to any continuing obligation of the parties that survive termination, as set forth herein.
6. This Development Agreement shall be recorded at the Snohomish County Auditor's Office.
7. As provided in the Hearing Examiner's CUP decision, a copy of this Development Agreement shall be provided to all parties of record in the CUP proceeding within 60 days of CUP approval, which period expires on April 1, 2007.
8. This Development Agreement is a covenant running with the land and is binding on the heirs, personal representatives, successors and assigns of the parties herein.
9. A permit or approval issued by the City after the execution of this Development Agreement and after the effective date of annexation must be consistent with this Development Agreement.

10. Nothing in this Development Agreement shall be construed to restrict the authority of the City to exercise its power and discretion to rezone the Real Property following expiration of the term of this Development Agreement.
11. In the event of breach of this Agreement by either party, the non-breaching party shall be entitled to bring an action for specific performance and/or injunctive relief. In addition, in the event of breach by one or more owners, the City shall be entitled to stop work on any pending development by the breaching owner and shall be entitled to withhold approval of pending permit applications submitted by the breaching owner. In the event either party commences an action to enforce this agreement or for other relief pursuant to this agreement, the prevailing party in such litigation shall be entitled to an award of reasonable costs and attorneys fees, including costs and fees on appeal.
12. In the event of any dispute as to interpretation or application of the terms or conditions of this Agreement, the Owner and the City shall meet within ten (10) business days after request from any party for the purpose of attempting, in good faith, to resolve the dispute. The meeting may, by mutual agreement, be continued to a date certain in order to include other parties or persons, or to obtain additional information. In the event that a dispute is not resolved through party consultation, the matter shall be scheduled for mediation before a mutually agreed upon neutral party. If the matter is not settled through mediation, any aggrieved party may file an action in the Snohomish County Superior Court, as may be allowed by law and court rules.
13. This Agreement shall be governed by and be interpreted in accordance with the laws of the State of Washington.
14. If any provision of this Agreement is determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law.
15. This Agreement shall not be modified or amended except in writing signed by the City and Owner or their respective successors in interest.
16. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.
17. The Owner agrees that in the event of a proposed sale, gift, transfer, segregation, assignment or devise of the Property, the Owner shall disclose the existence of this Agreement to the interested party.

18. This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.
19. This Agreement shall not be construed as a waiver of any and all other development regulations of the City or other governmental agencies applicable to the development of Owner's property.

EXECUTED THIS 25<sup>th</sup> DAY OF April, 2007.

OWNERS:

L116-1 Nourse, LLC

By: 

Malcolm McNaughton

Authorized Agent


CITY OF LAKE STEVENS:

By: 

Vern Little

Mayor

Approved as to form:

 City Attorney

## **EXHIBIT A**

### **Legal Description**

**29060600403300:**

SEC 06 TWP 29 RGE 06 RT-54A) ALL TH PTN NE1/4 SW1/4 & NW1/4 SE1/4 & SE1/4 NW1/4 & SW1/4 NE1/4 LY SLY OF SEC S/HY 15-A DAF BEG CTR SEC TH S87\*19 00W 216 .06 FT TPB TH CONT S89\*19 00W 72.54 FT TH N 612.61 FT TO C/L CO RD TH ALG C/L SD RD S 53\*21 00E 139.6 FT TH S75\*14 00E ALG C/L SD RD 393.8 FT TH S49\*55 00E ALG SD C/L 87.7 FT TH S33\*08 00E ALG C/L 480.8 FT TH CONT ALG SD C/L S2 3\*57 00E 215.05 FT TH S88\*30 41 W 840.99FT TH NLY 252.35FT TPB LESS CO RD- AKA TR 69 & PTN TR 75 & 82 LY SLY SEC S/HY 15 UNREC PLAT

**29060600403200:**

SEC 06 TWP 29 RGE 06 RT-53) BEG 1/4 COR CTR SEC TH S87\*18 58W 216.04 FT TH S01\*06 18W 252.35 FT TO TPB TH N84\*58 43E 216.04 FT TH N 88\*13 14E 624.93 FT TH S23\*57 00E 294.61FT TH S89\*41 30W 965.11 FT TH N01\*06 18E 252.35FT TO TPB LESS CO RD

**29060600403100:**

SEC 06 TWP 29 RGE 06 RT-52) BEG 1/4 COR OF CTR SEC TH S87\* 18 58W 216.04 FT TH S01\*06 18W 504.70 FT TO TPB TH N89\*41 30E 965.11 FT TH S22\*55 00E 296.14 FT TH N89\*01 14W 1084.88 FT TH N01\*06 18E 252.35FT TO TPB LESS CO RDS

**29060600403000:**

SEC 06 TWP 29 RGE 06 -- BEG 1/4 COR ON E BDY OF SEC TH S 1881.24 FT TH N85\*33 00W 2062.39 FT TH N 13\*52 00E 553.06 FT TO TPB TH N13\*52 00E 280.89 FT TH N89\*07 00W 1084.88 FT TH S 01\*06 00W 291.95 FT TH N81\*13 00E 212.49 FT TH S87\*56 00E TO TPB LESS 15 FT STRIP OFF ELY SIDE FOR RD PURPOSES.

**29060600402900:**

SEC 06 TWP 29 RGE 06 1 AC & ALLOWED BLDG FOR S/C EX ON FDP- BEG 1/4 COR ON E BDY SEC TH S 1881.24FT TH N85\*33 00W 2062.39FT TH N13\*52 00E 221.48FT TO TPB TH N13\*52 00E 331.58FT TH N87\*56 00W TO C/L SEC TH S 320FT TH S87\*34 00E TO TPB LESS 15FT STRIP OFF ELY SIDE FOR RD REFER TO 062906-4-029-0103 FOR REMAINDER

**29060600402901:**

SEC 06 TWP 29 RGE 06 BEG 1/4 COR ON E BDY SEC TH S 1881.24FT TH N85\*33 00W 2062.39FT TH N13\*52 00E 221.48FT TO TPB TH N13\*52 00E 331.58FT TH N87\*56 00W TO C/L SEC TH S 320FT TH S87\*34 00E TO TPB LESS 15FT STRIP OFF ELY SIDE FOR RD EXC 1 AC & ALLOWED BLDG FOR S/C EX ON 062906-4-029-0004

**29060600402800:**

SEC 06 TWP 29 RGE 06 RT-49) BEG 1/4 COR E BDY OF SEC TH S ALGSEC LN 1881.24 FT TH N85\*33 00W 2062.39 FT TO TPB TH N13\*52 00E 221.48 FT TH N87\*34 00W TO N & S 1/4 LN TH S ALG 1/4 SEC LN 630 FT TH N61\*08 00E TO TPB LESS STR IP 15FT WIDE ON E SIDE FOR RD

**29060600403600:**

SEC 06 TWP 29 RGE 06 RT-56A) BEG NE COR NW1/4 SE1/4 TH S00\*4333W 570.53FT TPB TH S89\*41 30W 614.95FT TH S22\*55 00E 219.9FT TH S13\*52 10W 280.89FT TH S87\*56 00E 558.70FT TH N00\*43 33E 570.52FT TPB LESS CO RD



**Exhibit A**

**[Continued]**

**00385700200100:**

BAILY'S 3RD ADD TO L S SANDY BEACH TRS BLK 002 D-00 - SANDY BEACH TRACTS LOT 1

**29060600200900:**

SEC 06 TWP 29 RGE 06 RT-67-68) BEG CTR SEC TH S87\*17 00W 288.6 FT TPB TH N TO SLY MGN S/HY TH WLY ALG SD MGN TO ELY LN CO RD TH SLY ALG ELY LN SD RD TO E & W C/L SEC TH ELY ALG SD C/L TO TPB

**29060600300500:**

SEC 06 TWP 29 RGE 06 RT-65-65A-66) N 396.4FT AS MEAS ALG E LNBEG AT CTR OF SEC TH S87\*19 00W 216.04FT TPB TH S87\*19 00W 740.34FT TH S01\*36 00E 281.6FT TH S13\*45 00W 244.4FT TH S 23.92FT TH N84\*16 00E 783.94FT TH N00\*46 00E 504.7FT TPB LESS RD

**29060600302200:**

SEC 06 TWP 29 RGE 06 BEG CTR SEC 6 TH S87\*18 58W (S87\*19 00W BY DEED) DIST 216.06FT TH S01\*24 35W (S01\*06 00W DEED) DIST 396.4FT TH S87\*18 58W (S87\*19 00W BY DEED) TO ELY LN CALLOW RD & POB TH N87\*18 58E (N87\*19 00E BY DEED) DIST 165FT TH S13\*55 00W (S13\*45 00W BY DEED) DIST 115FT TH S87\*18 58W (S87\*19 00W BY DEED) DIST 165FT M/L TO SD ELY LN SD CALLOW RD TH N13\*55 00E (N13\*45 00E DEED) DIST 115FT M/L TO POB TGW PTN NE1/4 SW1/4 SEC 6 DAF COM AT CTR SD SEC TH S87\*18 58W (S87\*19 00W DEED) DIST 216.06FT TH S01\*24 35W (S01\*06 00W DEED) DIST 396.4FT TH S87\*18 58W (S87\*19 00W DEED) TO ELY LN CALLOW RD TH N87\*18 58E (N87\*19 00E DEED) DIST 165FT TO POB TH S13\*55 00W (S13\*45 00W DEED) DIST 115FT TH N87\*18 58E DIST 21.20FT TH N08\*31 59E DIST 112.35FT TH S87\*18 58W 10.20FT TO POB & TGW FOR TAX PURP ONLY - FDP BEG CTR SEC 6 TH S87\*18 58W (S87\*19 00W DEED) 216.06FT TH S01\*24 35W (S01\*06 00W DEED) DIST 396.4FT TH S87\*18 58W (S87\*19 00W DEED) TO ELY LN CALLOW RD TH N 87\*18 58E (N87\*19 00E DEED) DIST 175.2FT TPB TH S13\*55 00W DIST 115FT TH N87\*18 58E DIST 8.8FT TH N08\*31 59E DIST 112.35FT TH S87\*18 58W 8.8FT TPB

Exhibit A

[Continued]

**29060600300400:**

SEC 06 TWP 29 RGE 06 BEG CTR SEC 6 TH S87\*19 00W DIST 216.96FT TH S01\*06 00W DIST 396.4FT TPB TH S87\*19 00W DIST 756.2FT TH S13\*45 00W DIST 123.6FT TH S 54.1FT THE TAP WH IS 177FT S OF & BEARS S01\*06 00W FR TPB TH N01\*06 00E DIST 177FT TPB TGW PTN LY E OF CALLOW RD & BETW N & S LNS OF ABV DESC TR AS EXT WLY TO E LN CALLOW RD EXC W 165FT AS MEAS ALG N LN SD TR OF THE N 115FT OF SD TR AS MEAS ALG TH ELY MGN OF CALLOW RD EXC PTN CONV TO PAUL R CURNETT BY QCD REC AF 9612190391 DAF - TH PTN NE1/4 SW1/4 SEC 6 DAF - BEG AT CTR SD SEC TH S87\*19 00W DIST 216.06FT TH S01\*0600W DIST 396.40FT TH S87\*19 00W DIST 572.20FT TPB TH S87\*19 00W DIST 10.2FT TH S13\*45 00W DIST 115FT TH N87\*19 00E DIST 21.20FT TH N08\*21 48E DIST 112.38FT TPB PER BLA 96-110782 AF 9612200199 & TGW TH PTN NE1/4 SW1/4 SEC 6 DAF - COM AT CTR SEC 6 TH S01\*24 35 W ALG C/L SD SEC 6 DIST 1024.65FT (1026.42FT BY DEED) TH S81\*02 31W (S81\*13 00W BY DEED) DIST 212.49FT TH N01\*24 35E (N01\*06 00E BY DEED) DIST 474.50FT (480.60FT BY DEED) TO S LN OF A TR LD CONV TO JOSEPH A LONG & MARIE A LONG REC AF 1387084 TH S87\*36 23W ALG S LN SD LONGS TR DIST 582.63FT TO POB TH S07\*30 18W DIST 7.28FT TH N82\*29 42W DIST 41.72FT TO SD S LN LONGS TR TH N87\*36 23E ALG SD S LN DIST 42.35FT TO POB & ALSO LESS FOR TAX PURP ONLY - BEG CTR SEC 6 TH S87\*18 58W (S87\*19 00W BY DEED) 216.06FT TH S01\*24 35W (S01\*06 00W BY DEED) DIST 396.4FT TH S87\*18 58W (S87\*19 00W DEED) TO ELY LN CALLOW RD TH N87\*18 58E (N87\*19 00E DEED) DIST 175.2FT TPB TH S13\*55 00W DIST 115FT TH N87\*18 58E DIST 8.8FT TH N08\*31 59E DIST 112.35FT TH S87\*18 58W 8.8FT TPB ALSO DEEDED TO PAUL CURNETT BY QCD REC AF 9612190391 BUT NOT A PTN OF BLA 96-110782

**29060600302500:**

SEC 06 TWP 29 RGE 06 LOT 3 OF SP49-72 DAF - TH PTN NE1/4 SW1/4 SEC 6 DAF - COM AT NE COR SD SW1/4 TH S01\*20 05W ALG E LN THOF DIST 1025.82FT TO SE COR NE1/4 SD SW1/4 TH S80\*59 49W ALG S LN THOF 212.49FT TH N01\*20 05E DIST 475.58FT TO ELY PROLNG OF S LN CERTAIN TR LD CONV TO JOSEPH A LONG AF 1387084 TH S87\*32 17W ALG SD PROLNG & ALG SD S LN DIST 649.59FT TH S15\*09 57W DIST 78.70FT TAP 75FT S OF AS MEAS PERP TO S LN SD LONG PRY & TPB TH CONT S15\*09 57W DIST 78.70FT TAP 150FT S OF AS MEAS PERP TO SD S LN TH S87\*32 17W DIST 175FT M/L TO ELY MGN CALLOW RD PRESENTLY 40FT IN WIDTH TH NELY ALG SD MGN DIST 78.70FT M/L TAP TH BEARS S87\*32 17W FR TPB TH N87\*32 17E DIST 175FT TO TPB

**Exhibit A**

**[Continued]**

**29060600302600:**

SEC 06 TWP 29 RGE 06 LOT 4 OF SP49-72 DAF - TH PTN NE1/4 SW1/4 SEC 6 DAF - COM AT NE COR SD SW1/4 TH S01\*20 05W ALG E LN THOF DIST 1025.82FT TO SE COR NW1/4 SW1/4 TH S80\*59 49W ALG S LN THOF 212.49FT TPB TH CONT S80\*59 49W ALG SD S LN DIST 640FT TH N05\*32 03E DIST 163.73FT TH S80\*59 49W DIST 279.37FT TO ELY MGN CALLOW RD PRESENTLY 40FT IN WIDTH TH NLY ALG SD MGN DIST 280FT M/L TO A LN TH LIES 150FT S OF AS MEAS PERP TO S LN OF CERTAIN TR LD CONVY TO JOSEPH A LONG AF 1387084 TH N87\*32 17E PLT S LN SD LONG TR TAP TH BEARS S15\*09 57W FR A PT ON SD S LN TH LIES 175FT E OF ELY MGN SD CALLOW RD TH N15\*09 57E DIST 157.40FT TO S LN SD LONG TR TH N87\*32 17E ALG SD S LN & ITS ELY PRONG DIST 649.59FT TH S01\*20 05W DIST 475.58FT TPB & REV BY BLA 96-109709 REC AF 9612200070& TGW FDT COM AT CTR SEC 6 TH S01\*24 35W ALG CTR LN SD SEC 6 DIST 1024.65FT (1026.42 BY DEED) TH S81\*02 31W (S81\*13 00W DEED) DIST 212.49FT TH N01\*24 35E (N01\*06 00E DEED) DIST 474.50FT TO S LN OF TR LD CONVY TO JOSEPH A LONG AF 1387084 TH S87\*36 23W ALG S LN SD LONGS TR DIST 582.63FT TO POB TH S07\*30 18W DIST 7.28FT TH N82\*29 42W DIST 41.72FT TO SD S LN LONGS TR TH N87\*36 23E ALG SD S LN DIST 42.35FT TPB

**29060600301800:**

SEC 06 TWP 29 RGE 06 LOT 2 OF SP49-72 DAF - TH PTN NE1/4 SW1/4 SEC 6 DAF - COM AT NE COR SD SW1/4 TH S01\*20 05W ALG E LN THOF DIST 1025.82FT TO SE COR NE1/4 SD SW1/4 TH S80\*59 49W ALG S LN THOF 212.49FT TH N01\*20 05E DIST 475.58FT TO ELY PROLNG OF S LN TH CERTAIN TR OF LD CONV TO JOSEPH A LONG AF 1387084 TH S87\*32 17W ALG SD PROLNG & ALG SD S LN DIST 649.59FT TO TPB TH S15\*09 57W DIST 78.70FT TAP 75FT S AS MEAS PERP TO S LN SD LONG PTY TH S87\*32 17W DIST 175FT TO ELY MGN CALLOW RD PRESENTLY 40FT IN WIDTH TH N15\*09 57E DIST 78.70FT TO SD S LN TH N87\*32 17E DIST 175FT TPB

**29060600301700:**

SEC 06 TWP 29 RGE 06 LOT 1 OF SP49-72 DAF - TH PTN NE1/4 SW1/4 SEC 6 DAF - COM AT NE COR SD SW1/4 TH S01\*20 05W ALG E LN THOF DIST 1025.82FT TO SE COR NE1/4 SD SW1/4 TH S80\*59 49W ALG S LN THOF DIST 852.49FT TO TPB TH N05\*32 03E DIST 163.73FT TH S80\*59 49W PLT & 160FT N OF AS MEAS PERP TO S LN OF SD NE1/4 SW1/4 DIST 279.37FT TO E MGN CALLOW RD SD RD PRESENTLY 40FT IN WIDTH TH S05\*32 03W ALG SD E MGN DIST 149.73FT TH CONT ALG SD MGN S03\*14 17 W DIST 13.88FT TO S LN OF NE1/4 SW1/4 SD SEC 6 TH N80\*59 49E ALG SD S LN DIST 278.86FT TO TPB

**00385700500101:**

BAILY'S 3RD ADD TO L S SANDY BEACH TRS BLK 005 D-01 - SANDY BEACH TRACTS LOTS 1 & 2 EXC FDP ALL THAY PTN LOT 2 LY ELY OF LN DAF COM NE COR SD LOT 2 TH S80\*03 34W ALG N LN 234FT TPB OF HEREIN DESC LN TH S TAP ON S LN LOT 1 234FT S74\*53 00W OF SE COR & TERMINOUS OF HEREIN DESC LN

**EXHIBIT B**

City of Lake Stevens Ordinance 719  
1-12-2006

CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON

ORDINANCE NO. 719

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, ANNEXING 1014 PARCELS OF APPROXIMATELY **EIGHT HUNDRED FIFTY FIVE (855)** ACRES, KNOWN AS THE "**Greenspace - CAM West** ANNEXATION," INTO THE CITY AND PROVIDING FOR THE ASSUMPTION OF INDEBTEDNESS AND COMPREHENSIVE PLAN AND ZONING DESIGNATIONS; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, following a public meeting with petitioning property owners, on *May 9<sup>th</sup> 2005* the City Council authorized by motion the circulation of a petition to annex approximately *one hundred twenty six and fifty eight one hundredths (126.58) acres* located along the west boundary of the City of Lake Stevens from State Route 92 south on either side of Callow Road until about the 2500 block of Callow Road; and

WHEREAS, among the conditions identified in the motion is the requirement that the property be zoned by the City at the time of annexation; and

WHEREAS, this petition was returned to the City on *Sept 12<sup>th</sup> 2005* with signatures of property owners representing more than sixty percent of the assessed value of the area; and

WHEREAS, on *September 26<sup>th</sup> 2005*, the City Council reviewed the 60% petition and scheduled a public hearing for *October 10<sup>th</sup>, 2005*; and

WHEREAS, following a public meeting on *October 5<sup>th</sup> 2005*, the Lake Stevens Planning Commission forwarded a recommendation for approval of the annexation, plan and zoning adoption; and

WHEREAS, following a public hearing on *October 10<sup>th</sup> and October 17<sup>th</sup> 2005* the City Council approved on *October 17<sup>th</sup>* the first reading of this Ordinance No. 719, and authorized it to be submitted to the Snohomish County Boundary Review Board (BRB) as notice of the City's intention to annex the area in question; and

WHEREAS, public notice was provided for the *October 10<sup>th</sup> 2005 and October 17<sup>th</sup> 2005* public hearing by posting the annexation site in three conspicuous locations, advertising in the Lake Stevens Journal, and Everett Herald respectively, and mailing to property owners within 150 feet of the site; and

WHEREAS, the Washington State Boundary Review Board (BRB) invoked jurisdiction and following a public hearing held *December 6<sup>th</sup> 2005*, the Snohomish County Council modified the annexation boundary to include an additional 728.4 acres as shown on map noted as Exhibit 1; and

WHEREAS, the City Council conducted a duly noticed public hearing on *December 27<sup>th</sup> 2005* regarding Land Use designations and Zoning for the BRB revised Greenspace annexation, and adopted Land Use designations and Zoning; and

WHEREAS, the City Council conducted a second duly noticed public meeting on December 27<sup>th</sup> 2005; and

WHEREAS, the City Council conducted a duly noticed public meeting on January 12<sup>th</sup> 2006 for final reading and adoption

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO ORDAIN AS FOLLOWS:

Section 1. Annexation. The properties mapped on the attached Exhibit 1 and legally described in the attached Exhibit 2 are hereby annexed into the City of Lake Stevens.

Section 2. Indebtedness. There are no existing separately taxed bondedness for the annexation area to assume and the annexed properties shall be assessed and taxed at the same rate and on the same basis as property in the City of Lake Stevens to pay for outstanding indebtedness at the date of annexation.

Section 3. Comprehensive Plan and Zoning Ordinance Designations. Said annexed property shall be subject to the City of Lake Stevens Comprehensive Plan, Land Use Regulations (Title 14 LSMC), Land Use Designations, Official Zoning Map, and conditions as adopted in Council Motion at the December 27<sup>th</sup>, 2005 public hearing and as set forth in attached Exhibit 3, adopting Exhibit A of the Staff Report (the Planning Commission recommendations of December 13, 2005) as amended by the City Council on December 27, 2005 and as amended by the City Council by motion on January 12, 2006.

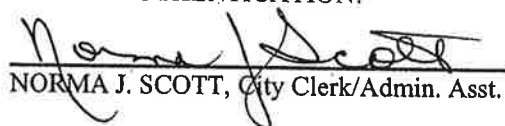
Section 4. Severability. If any provision or section of this Ordinance shall be held void or unconstitutional, all other parts, provisions and sections of this Ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 5. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after the date of publication.


PASSED by the City Council of the City of Lake Stevens this 12<sup>th</sup> day of *January*, 2006.

  
LYNN E. WALTY, Mayor

ATTEST/AUTHENTICATION:

  
NORMA J. SCOTT, City Clerk/Admin. Asst.

APPROVED AS TO FORM:

  
GRANT K. WEED, City Attorney

First Reading:	<i>October 17<sup>th</sup> 2005</i>
Second Reading:	<i>December 27<sup>th</sup> 200</i>
Final Reading:	<i>January 12<sup>th</sup> 2006</i>
Published:	<i>January 13<sup>th</sup> 2006</i>
Effective Date:	<i>January 18<sup>th</sup> 2006</i>

**EXHIBIT ONE**

**BEB Revised Greenspace Annexation Map**

On file in the City Clerk's Office  
City of Lake Stevens,  
1812 Main Street  
Lake Stevens, WA



**EXHIBIT TWO**

**ANNEXATION BOUNDARY FOR GREENSPACE/CAM WEST (FINAL REVISION)**

THOSE PORTIONS OF SECTIONS 6 AND 7, TOWNSHIP 29 NORTH, RANGE 6 EAST, W.M., AND THOSE PORTIONS OF SECTIONS 1 AND 12, TOWNSHIP 29 NORTH, RANGE 5 EAST, W. M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTH QUARTER CORNER OF SAID SECTION 6, THENCE NORTH 00°03'16" EAST, ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 6, A DISTANCE OF 76.42 FEET;

**THENCE** NORTH 58°25'29" EAST, 23.49 FEET TO THE EAST MARGIN OF 107<sup>TH</sup> AVENUE NORTHEAST AND THE **TRUE POINT OF BEGINNING**;

**THENCE** CONTINUING NORTH 58°25'29" EAST, 278.69 FEET TO THE SOUTH LINE OF THE PLAT OF CEDAR ROAD, ACCORDING TO THE PLAT THEREOF RECORDED UNDER AUDITORS FILE NUMBER 200410225010, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, SAID POINT BEING A POINT ON THE NOW EXISTING CITY LIMITS OF THE CITY OF LAKE STEVENS ACCORDING TO ORDINANCE 341 EFFECTIVE OCTOBER 9, 1989;

**THENCE** CONTINUING ALONG THE WEST LINE OF SAID PLAT OF CEDAR ROAD AND THE EXISTING CITY LIMITS TO THE SOUTH LINE OF 30<sup>TH</sup> STREET NORTHEAST;

**THENCE** NORTHEASTERLY ALONG THE EXISTING CITY LIMITS TO THE INTERSECTION OF THE NORTH MARGIN OF 30<sup>TH</sup> STREET NORTHEAST AND THE EAST MARGIN OF 109<sup>TH</sup> AVENUE NORTHEAST;

**THENCE** EAST ALONG THE NORTH MARGIN OF 30<sup>TH</sup> STREET NORTHEAST AND THE EXISTING CITY LIMITS TO 343.43 FEET MORE OR LESS TO THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 6 SAID POINT ALSO BEING THE EAST LINE OF TRACT 56 OF THE UNRECORDED RUCKER BROTHERS PLAT;

**THENCE** NORTH ALONG THE AFOREMENTIONED EAST LINE TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 6;

**THENCE** EAST ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND A POINT ON THE EXISTING CITY LIMITS OF LAKE STEVENS ACCORDING TO ORDINANCE 586 EFFECTIVE JUNE 29, 1998;

**THENCE** NORTH ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE

SOUTHEAST QUARTER OF SAID SECTION 6 AND THE EXISTING CITY LIMITS TO THE SOUTH MARGIN OF THE PLAT OF MALIA HEIGHTS, ACCORDING TO THE PLAT THEREOF RECORDED UNDER AUDITORS FILE NUMBER 200305055003, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, SAID POINT BEING A POINT ON THE NOW EXISTING CITY LIMITS OF THE CITY OF LAKE STEVENS ACCORDING TO ORDINANCE 589 EFFECTIVE JULY 18, 1998;

**THENCE** WEST ALONG THE SOUTH LINE OF SAID MALIA ESTATES AND ITS WESTERLY EXTENSION TO THE WEST MARGIN OF 109<sup>TH</sup> AVENUE NORTHEAST;

**THENCE** NORTH ALONG SAID WEST MARGIN AND ITS NORTHERLY EXTENSION TO THE NORTH MARGIN OF SR 92;

**THENCE** SOUTHWESTERLY ALONG THE NORTH MARGIN OF SR 92 AND ITS WESTERLY EXTENSION TO THE WEST MARGIN OF SR 9;

**THENCE** SOUTHERLY ALONG SAID WEST MARGIN AND ITS SOUTHERLY PROJECTION A DISTANCE OF 2,400 FEET MORE OR LESS TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12;

**THENCE** CONTINUING SOUTHERLY ALONG SAID PROJECTION AND WEST MARGIN A DISTANCE OF 2,700 FEET MORE OR LESS TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 12;

**THENCE** CONTINUING SOUTHERLY ALONG SAID WEST MARGIN A DISTANCE OF 450 FEET MORE OR LESS TO AN INTERSECTION WITH THE WESTERLY PROJECTION OF THAT PART OF THE SOUTHERLY MARGIN OF THE LUNDEEN PARKWAY ABUTTING THE EASTERLY MARGIN OF SAID SR 9 IN THE SOUTHEAST QUARTER OF SAID SECTION 12;

**THENCE** EASTERLY ALONG SAID WESTERLY PROJECTION A DISTANCE OF 330 FEET MORE OR LESS TO THE EASTERLY MARGIN OF SR 9;

**THENCE** SOUTHERLY ALONG SAID EASTERLY MARGIN TO THE NORTHEASTERLY LINE OF THE PLAT OF STEVENS COVE, AS RECORDED IN VOLUME 63 OF PLATS, PAGES 138-147, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

**THENCE** SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE A DISTANCE OF 1290 FEET MORE OR LESS TO THE NORTHEASTERLY CORNER OF SAID PLAT;

**THENCE** SOUTH 01° 28' 44" EAST ALONG THE EASTERLY LINE OF TRACT 502 OF SAID PLAT A DISTANCE OF 126.28 FEET TO AN ANGLE POINT;

**THENCE** SOUTH 16° 04' 28" WEST ALONG SAID EASTERLY LINE A DISTANCE OF 100.88 FEET TO AN INTERSECTION WITH THE WESTERLY PROJECTION OF THE NORTHERLY

LINE OF TRACT 999 OF SAID PLAT;

**THENCE** SOUTH 86° 47' 00" EAST ALONG SAID WESTERLY PROJECTION A DISTANCE OF 11.11 FEET TO THE WESTERLY LINE OF SAID TRACT 999;

**THENCE** SOUTH 16° 31' 21" WEST ALONG SAID WESTERLY LINE AND ITS SOUTHERLY EXTENSION A DISTANCE OF 136.09 FEET TO THE SOUTHWESTERLY CORNER OF A 20-FOOT ACCESS ROAD AS SHOWN ON SAID PLAT;

**THENCE** SOUTH 71° 08' 39" EAST ALONG THE SOUTHERLY MARGIN OF SAID ACCESS ROAD A DISTANCE OF 35.01 FEET TO AN ANGLE POINT;

**THENCE** NORTH 16° 31' 21" EAST ALONG THE EASTERLY MARGIN OF SAID ACCESS ROAD A DISTANCE OF 2.01 FEET TO THE SOUTHERLY LINE OF A PUMP STATION PROPERTY OWNED BY THE LAKE STEVENS SEWER DISTRICT;

**THENCE** SOUTH 73° 28' 39" EAST ALONG SAID SOUTHERLY LINE A DISTANCE OF 40.00 FEET TO THE SOUTHEAST CORNER OF SAID PUMP STATION PROPERTY;

**THENCE** SOUTH 37° 05' 14" EAST A DISTANCE OF 12 FEET MORE OR LESS TO THE NORTHWESTERLY MARGIN OF VERNON ROAD;

**THENCE** SOUTHERLY TO THE INTERSECTION OF THE SOUTHEASTERLY MARGIN OF VERNON ROAD WITH THE NORTHEASTERLY MARGIN OF TRACT 501 OF SAID PLAT OF STEVENS COVE;

**THENCE** SOUTHEASTERLY ALONG SAID NORTHEASTERLY MARGIN, AND ALONG THE NORTHEASTERLY MARGIN OF THE SECOND CLASS SHORLANDS, AS CONVEYED BY THE STATE OF WASHINGTON, SITUATE IN FRONT OF, ADJACENT TO OR ABUTTING SAID TRACT 501, TO THE NAVIGABLE BOUNDARY OF SAID SHORELANDS;

**THENCE** EASTERLY AND NORTHERLY ALONG SAID NAVIGABLE BOUNDARY ADJACENT TO AND ABUTTING THE SOUTHEAST AND NORTHEAST QUARTERS OF SAID SECTION 12 TO AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 12;

**THENCE** EASTERLY ALONG SAID NAVIGABLE BOUNDARY A DISTANCE OF 2800 FEET MORE OR LESS TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 7;

**THENCE** SOUTHEASTERLY ALONG SAID NAVIGABLE BOUNDARY A DISTANCE OF 2750 FEET MORE OR LESS TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF THE WEST 80 FEET OF THE EAST 536.15 FEET MORE OR LESS OF THAT PORTION OF GOVERNMENT LOT 5 LYING SOUTH OF VERNON ROAD;

**THENCE** NORTH ALONG SAID SOUTHERLY EXTENSION AND SAID WEST LINE A DISTANCE OF 300 FEET MORE OR LESS TO THE SOUTHWESTERLY MARGIN OF VERNON ROAD;

**THENCE** NORTHWESTERLY ALONG SAID SOUTHWESTERLY MARGIN A DISTANCE OF 480 FEET MORE OR LESS TO AN INTERSECTION WITH THE SOUTHERLY PROJECTION OF THE WEST LINE OF LOT 1 OF CHERRY ACRES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN VOLUME 28 OF PLATS, PAGE 85, RECORDS OF SNOHOMISH COUNTY;

**THENCE** NORTH AND PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 5, ALONG SAID SOUTHERLY PROJECTION AND SAID WEST LINE, TO THE NORTHWEST CORNER OF SAID LOT 1;

**THENCE** CONTINUING NORTH AND PARALLEL WITH SAID EAST LINE TO THE SOUTHEAST CORNER OF LOT 4 OF SHORT PLAT NO. 4(1-84) AS RECORDED UNDER RECORDING NUMBER 8507090228, RECORDS OF SNOHOMISH COUNTY;

**THENCE** CONTINUING NORTH ALONG THE EAST LINE OF SAID LOT AND SAID SHORT PLAT TO THE NORTHEAST CORNER OF LOT 2 OF SAID SHORT PLAT;

**THENCE** WEST ALONG THE NORTH LINE OF SAID LOT 2, AND ALONG THE NORTH LINE OF LOT 1 OF SAID SHORT PLAT, TO THE NORTHWEST CORNER OF SAID LOT 1, SAID CORNER ALSO LYING ON THE EAST LINE OF LAKEVIEW TERRACE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 24 OF PLATS, PAGE 102, RECORDS OF SNOHOMISH COUNTY;

**THENCE** NORTH ALONG THE EAST LINE OF SAID PLAT OF LAKEVIEW TERRACE TO THE NORTHEAST CORNER THEREOF;

**THENCE** WEST ALONG THE NORTH LINE OF SAID PLAT OF LAKEVIEW TERRACE TO AN INTERSECTION WITH A LINE LYING 100 FEET EAST OF THE WEST LINE OF GOVERNMENT LOT 5, AS MEASURED ALONG THE NORTH LINE THEREOF;

**THENCE** NORTH AND PARALLEL WITH THE WEST LINE OF SAID GOVERNMENT LOT 5 A DISTANCE OF 250 FEET MORE OR LESS TO THE SOUTH MARGIN OF 20<sup>TH</sup> STREET NORTHEAST;

**THENCE** WESTERLY ALONG SAID SOUTH MARGIN 100 FEET MORE OR LESS TO AN INTERSECTION WITH THE WEST LINE OF SAID GOVERNMENT LOT 5;

**THENCE** NORTH ALONG SAID WEST LINE 20 FEET MORE OR LESS TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 5, BEING ALSO THE SOUTHEAST

CORNER OF BAILY'S FIRST ADDITION TO LAKE STEVENS SANDY BEACH TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 55, RECORDS OF SNOHOMISH COUNTY;

**THENCE** NORTH ALONG THE EAST LINE OF SAID PLAT TO THE NORTHEAST CORNER OF LOT 1, BLOCK "I" OF SAID PLAT;

**THENCE** WESTERLY ALONG SAID NORTH LINE TO A POINT LYING SOUTH 85° 55' 12" EAST A DISTANCE OF 258.72 FEET FROM THE NORTHWEST CORNER THEREOF;

**THENCE** NORTH 00° 13' 25" WEST A DISTANCE OF 100.00 FEET TO AN INTERSECTION WITH THE NORTH LINE OF LOT 2, BLOCK "I" OF SAID PLAT;

**THENCE** NORTH 85° 55' 12" WEST ALONG SAID NORTH LINE A DISTANCE OF 110.36 FEET;

**THENCE** NORTH 00° 06' 39" EAST A DISTANCE OF 27.98 FEET;

**THENCE** NORTH 89° 23' 49" WEST A DISTANCE OF 38.12 FEET;

**THENCE** SOUTH 80° 47' 20" WEST A DISTANCE OF 111.37 FEET TO THE NORTHWEST CORNER OF SAID LOT 2;

**THENCE** NORTHERLY ALONG THE WEST LINE OF LOT 3, BLOCK "I" TO THE NORTHWEST CORNER OF SAID LOT 3;

**THENCE** WESTERLY ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 3, BLOCK "I" TO THE WEST MARGIN OF CEDAR ROAD;

**THENCE** NORTHERLY ALONG SAID WESTERLY MARGIN TO A POINT OF CURVATURE IN THE INTERSECTION OF SAID WESTERLY MARGIN WITH THE SOUTHERLY MARGIN OF 28<sup>TH</sup> STREET NORTHEAST;

**THENCE** NORTHWESTERLY AND WESTERLY ALONG SAID CURVE AND SOUTHERLY MARGIN TO AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE EAST MARGIN OF 107<sup>TH</sup> AVENUE NORTHEAST;

**THENCE** NORTHERLY ALONG SAID EXTENSION AND EAST MARGIN TO THE POINT OF BEGINNING.

**EXCEPTING** THERE FROM THE FOLLOWING DESCRIBED PARCEL ANNEXED UNDER ORDINANCE 681, EFFECTIVE NOVEMBER 10, 2003, TO WIT:

THAT PORTION OF THE EAST HALF OF SECTION 12, TOWNSHIP 29 NORTH, RANGE 5 EAST WILLAMETTE MERIDIAN DESCRIBED AS FOLLOWS:

**COMMENCING AT THE MOST WESTERLY CORNER OF LOT 4 OF THE PLAT OF VERNON PARK RECORDED UNDER AUDITOR FILE NUMBER 216027 RECORDS OF SNOHOMISH COUNTY, WASHINGTON;**

**THENCE NORTHEASTERLY ALONG THE NORTH LINE OF SAID LOT 4 TO THE WEST MARGIN OF SOPER HILL ROAD;**

**THENCE SOUTHEASTERLY ALONG THE WEST MARGIN OF SOPER HILL ROAD TO THE SOUTHEASTERLY LINE OF SAID LOT 4;**

**THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF LOT 4 TO THE SOUTHWEST CORNER OF SAID LOT 4;**

**THENCE SOUTHEASTERLY ALONG THE SOUTH LINES OF LOTS 3, 2 AND 1 TO A POINT ON THE SOUTH LINE OF LOT 1 THAT LIES 212.5 FEET NORTH AND SOUTH  $78^{\circ} 37'$  WEST 318 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 1;**

**THENCE NORTHEASTERLY TO A POINT 212.5 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 1;**

**THENCE SOUTH ON THE EASTERLY LINE OF SAID LOT 1 TO THE NORTHWEST MARGIN OF LUNDEEN PARKWAY;**

**THENCE WESTERLY ALONG THE NORTH MARGIN OF LUNDEEN PARKWAY TO AN INTERSECTION WITH THE EAST MARGIN OF SR 9;**

**THENCE NORTH ALONG THE EAST MARGIN OF S.R. 9 TO THE POINT OF BEGINNING.**

**EXHIBIT THREE**

**Planning Commission Recommendations**  
**Amended by City Council at a Public Hearing**  
**Amended by City Council at City Council Meeting 3<sup>rd</sup> and final reading**

**December 13, 2005**  
**December 27, 2005**  
**January 12, 2006**

The Lake Stevens Planning Commission recommends to the Lake Stevens City Council that the following comprehensive plan designations be approved for the proposed Greenspace, Lake Drive, and Wood's Annexations.

1. That those properties designated Urban Low Density Residential (4 D.U. per acre) (ULDR 4) on the County's comprehensive plan be designated as Medium Density Residential (MDR). Implementing zoning is recommended for Suburban Residential.
2. That those properties designated Urban Low Density Residential (6 D.U. per acre) (ULDR 6) on the County's comprehensive plan be designated as Medium Density Residential (MDR). Implementing zoning is recommended for Urban Residential.
3. That those properties designated Urban Medium Density Residential (6-12 D.U. per acre) (UMDR 6-12) on the County's comprehensive plan be designated as Medium Density Residential (MDR). Implementing zoning is recommended for High Urban Residential.
4. That those properties designated Urban High Density Residential (12-24 D.U. per acre) (UHDR 12-24) on the County's comprehensive plan be designated as High Density Residential (HDR). Implementing zoning is recommended for Multiple Family Residential.
5. That those properties designated Urban Commercial (UCOM) on the County's comprehensive plan be designated as Local Commercial. Implementing zoning is recommended for Local Business
6. That properties identified as CamWest on Figure 2 of this recommendation currently designated as R-9600 (DPO) on the County Plan be designated as Medium Density Residential (MDR). The implementing zoning is recommended for High Urban Residential.
7. That properties identified as Barclays North on Figure 2, currently designated as UHDR 12-24, UMDR 6-12, UIDR-4 and ULDR-6 on the comprehensive plan, be designated as High Density Residential. The implementing zoning is recommended for "Multiple Family Residential with Contract". Conditions of the implementing zoning are recommended to be as follows:
  - (a) The development will be reviewed as a Planned Residential Development through the Conditional Use process.
  - (b) Dwellings will be single family, duplex and/or townhouse units. Conventional apartments would not be allowed.

- (c) The City will review the critical areas, transportation concurrency, design review and SEPA according to its local standards and regulations, and any conditions deemed necessary by the City in order for the development to comply with said standards and regulations will be incorporated in a development agreement pursuant to RCW 36.70B.170.
  - (d) Development adjacent to single family zones will be designed to a High Urban Residential density standard to provide transition buffering between dwelling types. These will be single family detached homes.
8. That properties identified as Alan Clark on Figure 2, currently designated as ULDR 4, be designated as High Density Residential. The zoning is recommended for High Urban Residential.
9. That property identified as "Ghaffari" on Figure 3, currently pending a UMDR designation on the County comprehensive plan be designated High Urban Residential. The zoning is recommended for Multi-Family with Contract.



**FIGURE 2**  
**CAM-WEST, BARCLAYS NORTH, and ALAN CLARK**  
**ZONING**

Map is on file in the City Clerk's Office  
City of Lake Stevens  
1812 Main Street  
Lake Stevens, WA

**FIGURE 3**  
**L104-1 GHAFARI ZONING**

Map is on file in the City Clerk's Office  
City of Lake Stevens  
1812 Main Street  
Lake Stevens, WA

**EXHIBIT C**

Hearing Examiner Decision L116-1 Nourse, LLC  
2-1-2007

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF LAKE STEVENS**

In the Matter of the Application of	)	NO. CU 2006-1
	)	
L116-1 Nourse, LLC	)	
	)	
	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
<u>For Approval of a Conditional Use Permit</u>	)	

**SUMMARY OF DECISION**

The request for approval of a conditional use permit to construct 288 single-family detached residences on 70.10 acres in Lake Stevens, Washington, is **APPROVED**, subject to conditions.

**SUMMARY OF RECORD**

Request:

L116-1 Nourse, LLC requested approval of a Conditional Use Permit to allow construction of 288 single-family detached residences on 70.10 acres south of State Route 92 and east of Callow Road in Lake Stevens, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on January 18, 2007.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Roxanne Justice, City Planner  
Rodney Langer, City Consulting Engineer  
Ron Thomas, for the Applicant  
Paula McManus  
Chris Ward  
David Cayton, for the Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Master Permit Application, filed May 9, 2006 (Conditional Use Permit)
2. Master Permit Application, filed May 9, 2006 (Right-of-Way Vacation)
3. Corrected Notice of Application Conditional Use Permit
4. Environmental Checklist, dated September 15, 2006
5. Mitigated Determination of Nonsignificance, issued October 18, 2006
6. Vicinity Map
7. Staff Recommendation, dated January 3, 2007
8. Critical Areas and Mitigation Report

*Findings, Conclusions, and Decision*  
*Hearing Examiner for the City of Lake Stevens*  
*L116-1 Nourse, LLC, No. CU 2006-1*

9. Preliminary Storm Drainage Report
10. Traffic Report
11. Preliminary Geotechnical Report
12. Mail Distribution List
13. Legal Descriptions
14. Phasing Plan
15. [no exhibit submitted]
16. Notice of Public Hearing
17. Colored Photos
18. Parties of Record
19. Letter from Randy Boyer to Rebecca Ableman, City Department of Planning and Community Development, dated October 31, 2006
20. Letter from Ramin Pazooki, WSDOT to Roxanne Justice, City Public Works Director, dated November 6, 2006
21. Email message from Sandra Kortum, WSDOT, to Roxanne Justice, City Public Works Director, dated December 11, 2006
22. Copy of Plan Set
23. Revised City Staff Recommendation, dated January 3, 2007
24. Affidavit of Publication, dated October 24, 2006
25. Email message from Sandra Kortum to Roxanne Justice, dated December 11, 2006

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

#### FINDINGS

1. Malcolm McNaughton, on behalf of L116-1 Nourse, LLC (the Applicant) requests approval of a conditional use permit (CUP) to construct 288 single-family detached condominium residences and associated roads, utilities, open space and drainage treatment/detention facilities on 70.10 acres south of State Route 92 and east of Callow Road in Lake Stevens, Washington.<sup>1</sup> *Exhibit 1; Exhibit 23, page 2; Exhibit 22.*
2. The Applicant also requests approval of a vacation of public right-of-way application, to vacate a 30-foot-wide portion of the 107<sup>th</sup> Avenue NE public right-of-way north of the intersection of 107<sup>th</sup> Avenue NE and Oak Road, and to vacate a 30-foot-wide portion of the 109<sup>th</sup> Avenue NE public right-of-way north of the intersection of 109<sup>th</sup> Avenue NE and 30<sup>th</sup> Street NE. The area of 107<sup>th</sup> to be vacated would be 13,194 square feet, and the area of 109<sup>th</sup> to be vacated would be 16,066 square feet.<sup>2</sup> At the public hearing, Roxanne Justice, City

<sup>1</sup> The legal description of the property subject to the CUP application can be found within the Title Sheet to the Site Plans. *Exhibit 1; Exhibit 22.* The subject property is identified by Tax Account numbers 290606-002-009-00, 290606-003-004-00, 290606-003-005-00, 290606-003-017-00, 290606-003-018-00, 290606-003-022-00, 290606-003-025-00, 290606-003-026-00, 290606-004-028-00, 290606-004-029-00, 290606-004-029-01, 290606-004-030-00, 290606-004-031-00, 290606-004-032-00, 290606-004-033-00, 290606-004-036-00, 003857-002-001-00, 003857-005-001-01, and 003857-005-002-00. *Exhibit 22.*

<sup>2</sup> The legal description of the property subject to the vacation of public right-of-way application can be found within

*Findings, Conclusions, and Decision*  
*Hearing Examiner for the City of Lake Stevens*  
*L116-1 Nourse, LLC, No. CU 2006-1*

Planner, asked the Hearing Examiner to make a recommendation to the Lake Stevens City Council concerning the application for vacation of public right-of-way. Lake Stevens Municipal Code Section 14.56.240 provides that applications for vacation of public right-of-way shall be processed according to Chapter 35.79, Revised Code of Washington (RCW).<sup>3</sup> *Exhibit 2; Testimony of Ms. Justice; RCW Ch. 35.79.*

3. Roxanne Justice, City Planner, testified at the public hearing that the City of Lake Stevens (City) provided the public with adequate notice of the CUP and vacation of public right-of-way applications, and provided the public with adequate notice of the scoping meeting and public hearing associated with the applications. The City held a scoping meeting on the applications on November 8, 2006, as required by LSMC Section 14.16.120.<sup>4</sup> The City published notice of the public hearing associated with the applications weekly during the two-week period of October 11, 2004 through October 24, 2006 in the *Lake Stevens Journal*. *Testimony of Ms. Justice; Exhibit 23, page 2; Exhibit 24.*
4. Ron Thomas testified for the Applicant at the public hearing that the proposed 288 single-family residences would all consist of "detached condominiums". Ms. Justice elaborated that "condominium lines" would be drawn around each unit to define ownership of the unit and property surrounding the unit. A condominium association would own parks and open spaces within the proposed development except for a 2.2 acre-park dedicated to the City that would be located adjacent to Callow Road and Oak Road in the southeast portion of the proposed development. One single-family residence would be constructed per proposed subdivision lot. *Testimony of Mr. Thomas; Testimony of Ms. Justice; Exhibit 5; Exhibit 22; Exhibit 23, page 2.*
5. The proposed development would be constructed in four phases. Phase I of the proposed development would be located in the southwest portion of the subject property and would be constructed first, followed by Phase II in the northwest portion, Phase III in the southeast portion, and Phase IV in the northeast portion. Phase I would include construction of 30 units, the park at the intersection of Callow and Oak Road, a storm retention system serving the west portion of the entire development, frontage improvements along Callow Road, and trails within the development. Phase II would include construction of 119 units and completion of Callow Road and trail improvements. Phase III would include construction of 91 units and the extension of Oak Road to 109<sup>th</sup> Street. Phase IV would include construction

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the Master Permit Application for Vacation of Public Right of Way, filed May 9, 2006. *Exhibit 2.*

<sup>3</sup> Chapter 35.79, RCW provides that the city legislative authority must decide whether to adopt or reject a vacation. The legislative authority is authorized to adopt a vacation by ordinance. The hearing on an application may be held before the legislative authority, or before a committee thereof that reports its recommendation on the application to the legislative authority. The Hearing Examiner serves as the committee in this instance to report his recommendation to the Council. *Ch. 35.79, RCW.*

<sup>4</sup> LSMC Section 14.16.120 requires that all conditional use permit reviews shall include a scoping meeting to involve the public early in the permit process so that participants can raise any concerns about the conditional use permit application. *LSMC 14.16.120.*

of 48 units in the northeastern portion of the development with associated road improvements, a storm water detention facility, park area, and mitigation for impacts to critical areas. *Exhibit 5; Exhibit 14; Exhibit 23, page 3.*

6. The property subject to the CUP application currently contains 12 single-family residences with associated outbuildings, 8 delineated wetlands, and 3 streams. The subject property is covered with landscaping, grass, impervious surfaces associated with the residences, second growth forest, and pasture. All existing structures would be demolished prior to proposed subdivision construction. *Exhibit 8; Exhibit 9; Exhibit 22; Exhibit 23, page 3.*
7. The property subject to the CUP application is zoned Multi-Family Residential (MFR) with Development Agreement. The MFR zoning district is designed primarily to accommodate higher density multi-family developments, and generally to ensure a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. *LSMC 14.36.010(a), (g); City of Lake Stevens Comprehensive Plan (July 2006), Land Use Element, page 71 (Zoning Map); Exhibit 4; Exhibit 23, page 2.*
8. Paula McManus, a neighbor to the south of the proposed development, testified about her concern about the size of proposed lots. Within the MFR zoning district, the City permits lots at least 3,000 square feet in total area with a 50-foot minimum lot width. The City permits a zero square foot minimum residential density in the MFR zoning district, defined as zero minimum square feet per dwelling unit. Mr. Thomas testified for the Applicant that proposed lots would range from 3,000 to 7,000 square feet in total area. Development site plans show some proposed lots that would be less than 50-feet wide. Other proposed lots would be at least 50-feet wide. *LSMC 14.48.030(b); LSMC Ch. 14.48, Table V – Density and Dimensional Standards; Exhibit 22; Testimony of Ms. McManus; Testimony of Mr. Thomas.*
9. The subject property would be governed by a Development Agreement, currently in draft. The City Council adopted some conditions to be included in the draft Agreement on January 12, 2006 (Ordinance No. 719). At the public hearing, Mr. Thomas testified that the intent of the draft Agreement is to restrict land use in the MFR zoning district. Ms. Justice testified that City staff reviewed the proposal under the draft Agreement, and proposed a condition of CUP application approval to ensure that the proposed development adheres to Agreement conditions. Mr. Thomas testified that the proposed detached condominiums would be constructed consistent with the draft Development Agreement. The record contains no draft or final version of the Development Agreement. *Exhibits 1-25; Exhibit 23, page 2; Testimony of Ms. Justice; Testimony of Mr. Thomas.*
10. Single-family detached residences with one dwelling unit per lot are a permitted use in the MFR zoning district upon approval of a zoning permit.<sup>5</sup> Mr. Thomas testified that detached

<sup>5</sup> A "zoning permit" is defined by LSMC Section 14.08.010 as "a permit issued by the City that authorizes the recipient to make use of the property in accordance with the requirements of [Title 14]." *LSMC 14.08.010.* A "conditional use permit" is a permit issued by the Hearing Examiner that authorizes the recipient to make use of the

condominiums are an allowed use in the MFR zoning district. He testified that the subject property would allow many more units than the Applicant proposed, likely greater than 400 units. Mr. Thomas testified that development of the proposal would be consistent with the City zoning code. *LSMC Ch. 14.40, Table II; Testimony of Mr. Thomas.*

11. The City reviewed the environmental impact of the proposal as required by the State Environmental Policy Act (SEPA). The City determined that with 8 conditions, the proposal would not have a probable significant adverse impact on the environment, and issued a Mitigated Determination of Nonsignificance (MDNS) on October 18, 2006. The 8 MDNS conditions address: development of the project according to an approved site plan, approved drainage plan and approved grading plan; Certificate of Concurrence issuance; payment of park and school impact mitigation fees; compliance with LSMC Title 14, including Title 14 critical areas provisions; and restoration of critical areas due to temporary construction impacts. The MDNS was not appealed. *Exhibit 5; Exhibit 23, page 6.*
12. Access to the proposed lots would be provided through Oak Road, Callow Road, and 109<sup>th</sup> Avenue NE. The proposed development would include street frontage improvements along Oak Road, 107<sup>th</sup> Avenue NE, Callow Road, and 109<sup>th</sup> Avenue NE. Improvements would be constructed according to Chapter 14.56, LSMC, and would include right-of-way dedication, sidewalks, landscape strips, curb and gutter. The proposed development would also include 9,690 lineal feet of new public right-of-way to access proposed subdivision lots, including proposed Roads A, B, C, D, E, F, G, H, J, K, L, M, and N. Road A would intersect with Callow Road. Road N would intersect with Oak Road. Road K and Road J would intersect with 109<sup>th</sup> Avenue NE. 107<sup>th</sup> Avenue NE would terminate at Oak Road, with the vacation of the 107<sup>th</sup> Avenue NE public right-of-way. The area vacated would be replaced by critical areas Tract 988, proposed lots, and a proposed public road. State Route 92 intersects with Callow Road to the northwest of the proposed subdivision. Road M would terminate in a proposed cul-de-sac just south of SR 92. A portion of the 109<sup>th</sup> Avenue NE public right-of-way would be vacated to make way for proposed Road M. *Exhibit 22; Exhibit 23, pages 4 and 8.*
13. Ms. McManus testified to her concern about ponds within the proposed development breeding mosquitoes. Mr. Thomas responded for the Applicant that the proposed development would contain underground detention vaults. In a preliminary storm drainage report, the consulting engineer for the City reviewed the proposed development site and found no evidence of flooding on site. The consulting engineer reported three detention vaults would detain and treat drainage from three basin areas within the proposed development. The three basin areas are the Developed West-South Basin, the Developed/Existing North Basin, and the Developed/Existing Central Basin. The detention vault in the Developed West-South Basin would lie in the southwest portion of the development site. The detention vault in the Developed/Existing North Basin would lie in the north-central portion of the site, just west of the intersection of proposed subdivision

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property in accordance with the requirements of [Title 14] as well as any additional requirements imposed by the Council. *LSMC 14.08.010.*

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Road K and Road L. The detention vault in the Developed/Existing Central Basin would lie in the central portion of the site, just west of the intersection of proposed subdivision Road G and Road H. Detained flows from the Central and North Basins would be discharged to existing streams and wetlands on the property, and detained flows from the West-South Basin would be split between an existing storm system that crosses Callow Road approximately 400 feet south of Oak Road and the storm system that crosses Callow Road at the intersection of Callow Road and Oak Road. The intersection of Callow Road and Oak Road would be located at the southwest corner of the site. Rodney Langer, consulting engineer to the City, testified that the City would maintain the stormwater drainage system, and that all release rates within the system would be at or below existing release rates. *Exhibit 9; Exhibit 22; Testimony of Ms. McManus; Testimony of Mr. Thomas; Testimony of Mr. Langer.*

14. Rodney Langer, consulting engineer to the City, testified that some of the proposed basins and treatment vaults would be placed on or near slopes. Terra Associates, Inc., geotechnical engineer for the Applicant, reported that the southeastern portion of the proposed development site has two slopes with broad flat areas between them. The slopes in the southeastern portion of the site and side slopes of ravines on-site range from 25 to 42 percent grade. Terra Associates, Inc. reported that on-site slopes greater than 40 percent grade are local and discontinuous, and that these slopes are more than 10 feet high. Terra Associates, Inc. did not observe significant erosion along ravine side slopes. Terra Associates, Inc. made recommendations to construct detention vault foundations to compensate for on-site slopes. *Exhibit 11; Exhibit 22; Testimony of Mr. Langer.*
15. The Applicant would retain 372 of 1,670 significant trees currently found within the proposed development site. The Applicant would plant 3,894 replacement trees within the proposed development, including one tree per proposed lot. Chapter 14.76, LSMC, requires that one deciduous tree is planted for every 30 lineal feet of street frontage, with a tree canopy at least eight feet above finished grade. The Applicant would plant trees along street frontage as required by Chapter 14.76, LSMC. The Applicant would provide a 30-foot wide landscape buffer along the southern portion of SR 92, in the northwest corner of the proposed development. The buffer would include native species, 80 percent evergreen species and native shrubs. Landscaping throughout the proposed development would be included as required by Chapter 14.76, LSMC. *Exhibit 22; Exhibit 23, page 5.*
16. The proposed development site includes 8 wetlands, Wetlands A, B, C, E, J, X, Y and Z, and three streams, Streams A, B, and C. Group Four, Inc., the Applicant's critical areas and mitigation consultant, delineated wetlands on-site based on the Washington Department of Ecology Wetlands Identification and Delineation Manual. Group Four, Inc. determined that Wetland A and B are non-riparian Category 3 wetlands that should be protected by a 50-foot wide buffer; Wetland C, X, Y and Z are riparian Category 2 wetlands that should be protected by a 65-foot wide buffer with an additional 15-foot-wide boundary setback line (BSBL) adjacent to forested areas of the wetland; Wetland E is a Category 3 wetland that should be protected with a 50-foot wide buffer and additional 15-foot wide BSBL adjacent to

forested portions of the buffer; and Wetland J is a non-riparian Category 4 wetland with no buffer required. Group Four, Inc. determined according to Washington Administrative Code (WAC) Section 222-16-020 that north of an existing impassable fish barrier, Stream A is a Type 4 stream that should be protected with a 25-foot wide buffer, and south of the barrier, Stream A is a Type 3 stream that should be protected by a 50-foot wide buffer. Group Four, Inc. determined that Stream B and C are Type 4 streams that should be protected by a 25-foot wide buffer according to WAC Section 222-16-020. The Applicant would provide required buffers throughout the proposed development.<sup>6</sup> *Exhibit 8; Exhibit 22; Exhibit 23, page 3.*

17. Construction of the proposed development would temporarily and permanently impact on-site wetlands and associated buffers due to location of critical areas on-site and proposed subdivision road design.<sup>7</sup> The Applicant would mitigate temporary and permanent impacts on wetlands and associated buffers by planting native wetland and wetland buffer vegetation for Wetland B, E, X and Z, buffer restoration for Wetland B, C, and A, and buffer restoration for proposed impact to Stream A and Stream B buffer.<sup>8</sup> 37 feet of wetland would be created within the current Wetland B buffer to mitigate for the proposed fill of 37 feet of Wetland B. 4,881 square feet of wetland would be created within the current Wetland C buffer to mitigate for fill of 2,945 square feet on-site and 42 square feet of off-site impact to Wetland C. 228 square feet of wetland would be created within the current Wetland C buffer to mitigate for fill of 152 square feet of Wetland X. 144 square feet of wetland would be created within the current Wetland B buffer to mitigate for fill of 96 square feet of Wetland Z. Mitigation for 84,887 square feet of permanent buffer impacts would be provided through creation of additional buffer area, buffer enhancement, and additional wetland creation. A total of 91,149 square feet of additional buffer would be provided adjacent to existing buffer. The Applicant would use buffer averaging to accommodate construction of proposed development interior roads and lots.<sup>9</sup> *Exhibit 8; Exhibit 22; Exhibit 23, page 3.*

<sup>6</sup> Table XIV, LSMC Section 14.88.830 provides required wetland buffer widths classified by use intensity for each wetland category. For Category 2 wetlands, 35-foot-wide buffers are required for low intensity use and 65-foot-wide buffers are required for high intensity use. For Category 3 wetlands, 25-foot wide buffers are required for low intensity use and 50-foot-wide buffers are required for high intensity use. For Category 4 wetlands no buffers are required. Table XIII, LSMC Section 14.88.720 requires 50-foot wide stream buffers for Type 1, 2, and 3 streams, and 25-foot wide buffers for Type 4 streams. *Table XIV, LSMC 14.88.830; Table XIII, LSMC 14.88.720.*

<sup>7</sup> The impacts would include: construction of road and frontage improvements within Wetland C and its buffer; construction of frontage improvements within Wetland B and Z and associated buffer; sanitary sewer line construction within the buffer of Wetland X, Y, and Z; water line construction within Wetland B's buffer; and lot development within buffer of Wetland A, B, E, X, and Z. *Exhibit 8.*

<sup>8</sup> Table XV, LSMC Section 14.88.840(c) provides that mitigation ratios for replacement of impacted wetlands are as follows: Category 2 forested wetlands require a 3:1 replacement to impact ratio; Category 2 scrub/shrub wetlands require a 2:1 ratio; Category 2 emergent wetlands require a 1.5:1 ratio; Category 3 wetlands require a 1:1 replacement to impact ratio; and impacts to Category 4 wetlands do not require mitigation. *Table XV, LSMC 14.88.840(c).*

<sup>9</sup> LSMC Section 14.88.830(c) provides that wetland buffer widths may be modified by averaging. In no instance shall the buffer width be reduced by more than 50% of the standard buffer. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following: (1) that averaging is necessary to avoid an

18. The proposed development site is located within the Lake Stevens School District. The City has adopted the District's Capital Facilities Plan (CFP) with the City's Comprehensive Plan. The CFP quantifies a single family development's impact on district facilities and the costs of mitigating the impact. Based on the CFP, the District would assess a school impact fee of \$3,875.00 per single-family dwelling unit within the proposed development. The entire fee would be payable prior to issuance of the first building permit for the proposed development or a payment of \$3,875.00 would be payable per unit prior to issuance of each building permit. The City would require that the developer submit proof of payment from the District with each building permit application. *Exhibit 23, pages 4 – 5.*
19. Mr. Langer, consulting engineer for the City, testified that he reviewed proposed traffic mitigation associated with the proposed development and found proposed mitigation to sufficiently off-set traffic impacts of the proposed development. Traffic mitigation impact fees of \$368,758.00 for the proposed development would be paid to the City of Lake Stevens, based on the average daily trips to the roadway system surrounding the proposed development. *Exhibit 23, page 4; Testimony of Mr. Langer.*
20. According to a supplemental traffic analysis by Gibson Traffic Consultants dated November 13, 2006, the proposed development would add 291 PM peak hour trips and 2,756 average daily trips to the surrounding roadway system. In an email to Ms. Justice dated December 11, 2006, WSDOT requested that the proposed development's site plan allow: right-of-way for a future fully-channelized, illuminated, and signalized intersection at the State Route (SR) 92-Callow Road junction; the developer's payment of a pro-rata share of a traffic impact mitigation fee, totaling \$39,282.63; development of an east-bound right turn lane at the SR 92-Callow Road intersection; development of a north-bound right turn lane with 150 feet of storage at the SR 92-Callow Road intersection. In relationship to the request, WSDOT would require the Applicant to provide: an application to establish a JA Account covering WSDOT review costs; a channelization plan and illumination plans for WSDOT review and approval; a hydraulics and drainage report for WSDOT review; traffic control plans for all SR 92 construction phases; and a General Permit for work on SR 92. At the public hearing, Ms. Justice proposed a condition of CUP approval that would require the developer to address concerns of the Washington State Department of Transportation (WSDOT) prior to City issuance of any permit for the proposed development, including a clearing and grading

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extraordinary hardship to the applicant caused by circumstances peculiar to the property; (2) that the wetland contains variations in sensitivity due to existing physical characteristics; (3) that low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism; (4) that width averaging will not adversely impact the wetland functional values; and that the total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging. *LSMC 14.88.830(c).*

permit. *Exhibit 21; Testimony of Ms. Justice.*

21. The proposed development would provide for on-site parking for development residents. Four parking stalls would be provided per single-family unit: two parking stalls inside the garage, and two additional stalls in the driveway. *Exhibit 23, page 5.*
22. The proposed development would provide for open space through several tracts within the proposed development. Tract 988 would be a critical areas tract located in the southeast portion of the development site, surrounding Stream C and its associated buffer, and an open space tract located just south of proposed Lot 288. Tract 989 would be a critical areas tract extending roughly north to south within the site, surrounding Stream A and its associated buffer. Tract 990 would be located in the southwest portion of the site and would contain a storm detention vault and associated open space. Tract 991 would be a landscape tract located in the northwest corner of the site. Tract 992 would be an open space tract located northeast of proposed Lot 125. Tract 993 would be a Native Growth Protection Area (NGPA) located northeast of proposed Lots 109-116. Tract 994 would contain a storm detention vault and associated open space, and would be located just west of proposed Lot 121. Tract 995 would contain a storm detention vault and associated open space, and would be located just west of proposed Lot 61. Tract 996 would be an open space tract located just southeast of proposed Lot 87. Tract 997 would be an open space tract located just east of proposed Lot 86. Tract 998 would be an open space tract located along the southern edge of the site, south and east of proposed Lots 21 and 18. Tract 999 would be a NGPA located on the east edge of the site. *Exhibit 8; Exhibit 22.*
23. Chris Ward, a neighbor to the south of the proposed development, testified about his concern about buffers around proposed property lines and setbacks within the proposed development. David Cayton responded for the Applicant that there would be a 20-foot wide setback from the proposed development's southern property line and a retaining wall. Mr. Cayton testified that open space Tract 998 within the proposed development would buffer Mr. Ward's property to the south of the proposed development. Mr. Thomas testified that there would likely be 50 feet separating nearby houses on proposed lots and the proposed lot property line. *Testimony of Mr. Ward; Testimony of Mr. Cayton; Testimony of Mr. Thomas.*
24. The City assesses a parks mitigation fee according to Chapter 14.120, LSMC and the adopted parks and recreation plan for the proposed development. The fee is currently set at \$1,575.00 per single-family dwelling unit, with the entire fee payable prior to issuance of the first building permit for the proposed development or \$1,575.00 payable per dwelling unit payable prior to issue of each building permit. The City Staff Report stated "The applicant has expressed a desire to off-set a total or a portion of these costs allowed under LSMC 14.120.100." LSMC Section 14.120.100 provides that a developer can offer dedication of park land as total or partial payment of the required park impact fee. *LSMC 14.120.100; Exhibit 23, page 4.*
25. Ms. Justice testified that the park dedicated to the City located adjacent to Callow Road and

Oak Road would be maintained by the City. Ms. Justice testified that the City is updating the park maintenance plan and is hiring additional workers to maintain the future park. Ms. Justice testified that the future park will be landscaped by the Applicant prior to park dedication. *Testimony of Ms. Justice.*

26. The proposed development would provide for a pedestrian trail system. A low-impact trail would cross the site, extending from the southern portion of the site, near the Oak Road-proposed development Road B intersection. The trail would follow the channel of Stream A north to the existing stream crossing, then would head east. At that point, the trail would fork, with one fork extending into Tract 998 and another intersecting with the proposed cul-de-sac at the end of 109<sup>th</sup> Avenue NE. At the public hearing, Ms. McManus expressed a concern that the trail be open to the public. Ms. Justice responded by proposing a condition of CUP approval that the trail system would be open to the public. *Exhibit 23, page 4; Testimony of Ms. McManus; Testimony of Ms. Justice.*
27. Sanitary sewer service would be provided to the proposed development site by the Lake Stevens Sewer District. Water service would be provided to the site by Snohomish County PUD #1. At the public hearing, Ms. Justice proposed a condition of CUP approval that the sewer system general facilities charge must be paid by the developer prior to final plat approval. *Exhibit 23, page 5; Testimony of Ms. Justice.*
28. Mr. Thomas testified for the Applicant that all conditions as revised at the public hearing are reasonable and would mitigate impacts associated with proposed development. *Testimony of Mr. Thomas.*

## **CONCLUSIONS**

### Jurisdiction

The Hearing Examiner has authority to hear and decide applications for conditional use permits pursuant to Lake Stevens Municipal Code (LSMC) Section 14.12.320.

### Criteria for Review

Pursuant to LSMC Section 14.16.120, a Conditional Use Permit shall be approved if the following criteria are satisfied:

1. The use is permitted in the zone in which it is located;
2. The project is found to comply with the standards and requirements of Title 14; and
3. The project has completed the SEPA environmental review process.

A Conditional Use Permit shall be denied if the above criteria are not satisfied or the proposal will substantially endanger or harm the general public health or safety or adjoining properties. Reasonable conditions may be placed on the permit if necessary to ensure compliance with criteria. *LSMC 14.16.120(g).*

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### Conclusions Based on Findings

1. **The proposed construction of one single-family detached condominium dwelling unit per lot is a use permitted in the Multi-Family Residential zone.** Single-family detached residences with one dwelling unit per lot are a permitted use in the MFR zoning district upon City approval of a zoning permit. The City's MFR zoning district is designed primarily to accommodate higher density multi-family developments, and generally to ensure a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. The proposed development will include detached single-family residences, public roads to access the residences, open space, parks, storm drainage facilities, trees, landscaping, parking, and a trail system. *Findings 1, 4, 5, 7, 10, 12, 13, 15, 21, 22, 26.*
2. **With conditions, the project complies with the standards and requirements of Title 14, Lake Stevens Municipal Code.** The City gave the public adequate notice of the CUP application, scoping meeting and associated public hearing. Physical conditions within the proposed development site are suitable for development. The proposed use is allowed within the MFR zoning district. Proposed lots will meet the minimum lot size requirement in the MFR zone. All proposed lots will be accessible through public roads. Street improvements will be made along Road, 107<sup>th</sup> Avenue NE, Callow Road, and 109<sup>th</sup> Avenue NE, including sidewalks. One park within the proposed subdivision will be dedicated to the City. Park mitigation fees will be paid to the City. Stormwater runoff will be contained and treated within an underground detention vault system within the proposed subdivision. Significant trees will be retained on site and new trees planted. Wetlands and streams will be protected by required buffers, and impacts to wetlands, wetland buffers and stream buffers will be mitigated. School impact mitigation fees would be paid to the Lake Stevens School District. Traffic impact mitigation fees will be paid to the City and to WSDOT. The proposed development will provide for off-street parking for residents, open space within the proposed development, and a publicly-accessible trail system within the proposed development. Sanitary sewer and water service will be provided to the proposed development.

Conditions of CUP approval are necessary to ensure that development construction occurs according to the phased construction plan; that construction occurs according to geo-technical engineer recommendations; that trees are retained on-site according to a Final Tree Retention Plan; that critical area impact mitigation is monitored following mitigation plan implementation; that WSDOT review and approval of development plans occurs prior to City issuance of any permit for the proposed development, including a clearing and grading permit; that the development trail system will be open to the public; and that the sewer system general facilities charge must be paid by the developer prior to final plat approval. It seems that some proposed lots may not meet the minimum lot width requirement within the MFR zone. A condition of CUP approval is necessary to ensure that proposed development complies with the Development Agreement that will be entered into by the City and the developer. *Findings 1 – 10, 12 – 22, 24 – 28.*

3. **The project has completed the SEPA review process.** *Exhibit 11.*

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4. **With conditions, the proposed use would not endanger the general public safety or health or harm adjoining properties.** The proposed development will provide for single-family residential housing with access to public roads within the City of Lake Stevens. The City reviewed the development proposal as required by SEPA and determined that with conditions, the proposal would not have a probable significant adverse effect on the environment. The proposed development will include a stormwater management system. Sanitary sewer and water service will be provided to the proposed development. Wetlands and streams will be protected by required buffers, and impacts to wetlands, wetland buffers and stream buffers will be mitigated. School impact mitigation fees would be paid to the Lake Stevens School District. Traffic impact mitigation fees will be paid to the City and to WSDOT. Park mitigation fees will be paid. The park dedicated to the City will be maintained by the City. The proposed development will provide for open space within the proposed development and a publicly-accessible trail system within the proposed development.

A condition of CUP approval is necessary to ensure that there is a sufficient buffer between the Ward property to the south of the proposed development and the proposed development. A condition of CUP approval is also necessary to ensure that approval of the public right-of-way vacation application shall be obtained from the City prior to recording of the final plat. The vacation of the 107<sup>th</sup> Avenue NE and 109<sup>th</sup> Avenue NE public right-of-way will provide for a critical areas tract, construction of proposed lots, and construction of proposed public roads. The Applicant testified that all conditions proposed at the time of public hearing are reasonable and will mitigate proposed development impacts. *Findings 1, 2, 4 – 6, 11 - 13, 16 - 20, 22, 23 - 28.*

#### **DECISION**

Based on the preceding Findings and Conclusions, the request for a CUP to allow construction of 288 single-family detached condominiums on 70.10 acres south of State Route 92 and east of Callow Road in Lake Stevens, Washington, is **APPROVED**, subject to the following conditions:

<sup>10</sup>

1. Site development of the project is in accordance with a site plan approved by the Hearing Examiner and in compliance with the site plan submitted as part of the land use application.
2. A Developer's Agreement shall be entered into between the Applicant and the City of Lake Stevens upon approval of the Conditional Use Permit and prior to commencement of construction. The Developer's Agreement shall govern development of the project. A copy of the Development Agreement shall be provided to all parties of record within 60

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<sup>10</sup> Conditions include both legal requirements applicable to all developments and conditions to mitigate the specific impacts of this development.



days of Conditional Use Permit approval.<sup>11</sup>

3. A Final Tree Retention Plan shall be submitted and approved by the City of Lake Stevens prior to clearing and grading of the site.
4. Applicant shall pay the general facilities charges for the sewer system prior to final plat approval. The cost paid shall be the amount in effect at the time preliminary plat approval is issued as determined by the Lake Stevens Sewer District under a Developer Extension Agreement.
5. A notation shall be placed on the final plat that the school impact fee will be due and payable to the School District as a condition of issuance of a residential building permit for each unit.
6. Technical documents shall be submitted with the construction application including a review by a geo-technical engineer for the grading and construction plans.
7. All easements shown on title documents shall be shown on the condominium site plan, unless evidence is presented that said easements have been eliminated.
8. Any existing easement affecting lots in the proposed condominium site plan must be abandoned prior to final plat approval.
9. No clearing, grading, filling, construction or other physical alteration of the site may be undertaken prior to the issuance of the necessary permits for such activities.
10. All utilities shall be placed underground per LSMC 14.60 and shown on plans submitted at the time of construction application.
11. At each entrance to the development the applicant will be allowed to have not more than two signs identifying such subdivision and no sign shall exceed 16 square feet.
12. An illumination and electrical plan for the intersection of Callow Road and Highway 92 shall be submitted to and approved by WSDOT prior to recording of this CUP.
13. A channelization plan shall be submitted to and approved by WSDOT prior to recording of this CUP.
14. Compliance with all elements of Title 14 of the Lake Stevens Municipal Code.

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<sup>11</sup> Upon receipt of the Development Agreement and upon showing good cause, any party of record may request the Hearing Examiner re-open the conditional use permit approval public hearing for reconsideration of the Hearing Examiner's decision. The Hearing Examiner has authority to reconsider his decision to approve the conditional use permit with conditions, pursuant to LSMC Section 2.48.030.C.



15. The development of final construction documents shall include provision of vehicular access to each detention/water quality vault for maintenance and operation.
16. Development will be in accordance with all local, state, and federal requirements.
17. Approval of the public right-of-way vacation application shall be obtained from the City prior to clearing and grading of the site.
18. The project shall include a 20-foot wide setback from the southern property line of the development and a retaining wall in the area adjacent to the Ward property. Tract 998 shall serve as a buffer between the project and the Ward property.
19. The trail system shall be available for public use.

**Prior to building permit issuance:**

20. Phasing completion as noted below:

**Phase 1**

- Completion of the Park at the corner of Callow and Oak Road.
- Completion of the associated storm retention system that will service the western basin.
- Completion of frontage improvements along Callow and Oak Road.

**Phase 2**

- Completion of road frontage improvements along Callow Road.
- Construction of interior trail to be extended to stream corridor and completed during Phase 3 and 4.

**Phase 3**

- Oak road to 109<sup>th</sup> extension shall be completed.

**Phase 4**

- Completion of the associated storm water facility.
- Completion of the park area.
- Completion of Critical Areas mitigation.

21. Department of Public Works approval of the required and constructed frontage improvements.
22. A bond in the amount equal to three plantings for each of the 288 lots will be posted as a condition of final approval.

23. A maintenance bond will be submitted in the amount of 150 percent of the replacement value of 3,894 trees as defined in the final Tree Retention Plan. Said bond will remain in force for the five-year period.
24. A Final Wetland Report will be submitted which specifies a five-year monitoring program of Mitigation Plan implementation.
25. A bond in the amount of 150 percent of the price of wetland plantings will be posted with the City for the duration of the five-year monitoring program.
26. Traffic mitigation fees for the Nourse L116-1 residential development will be in the amount of \$368,758.00 to the City of Lake Stevens and \$39,282.63 to the Washington State Department of Transportation. The City of Lake Stevens mitigation fee, based on 288 units, can be paid per unit prior to building permit issuance at a fee of \$1,280.41.
27. The parks mitigation fee is paid to the City in the amount of \$1,575.00 per unit. This fee can be paid in whole (\$1,575.00 x 288 units) or \$1,575.00 can be paid per unit prior to permit issuance.
28. The Lake Stevens School District assesses a school impact fee of \$3,875.00 per single-family dwelling unit. The entire fee is payable prior to issuance of the first building permit or the \$3,875.00 per dwelling unit may be paid prior to the issuance of each building permit. Proof of payment from the school district is required with each building permit application.

DECIDED this 1<sup>st</sup> day of February 2007.

  
THEODORE PAUL HUNTER  
Hearing Examiner

**EXHIBIT D**

Determination of Nonsignificance L116-1 Nourse, LLC  
10-18-2006



## MITIGATED DETERMINATION OF NONSIGNIFICANCE

**Issuance Date:** October 18, 2006


**Project Name (No.):** L116-1 Nourse

**Applicant:** L116-1 Nourse, LLC

**Description of Proposal:** Proposed development of the 70.10-acre site consists of demolition of all existing structures and construction of 288 single-family residences with associated internal road and pedestrian access, frontage improvements, underground utilities, open space, and drainage treatment/detention facilities. Development of the site will result in 60% of the property being developed with approximately 32 acres devoted to open space/NGPA area. The development will occur in four phases. Phase 1 will include 30 units situated in the southwestern portion of the site. This will include the park at the corner of Callow and Oak Road, the associated storm retention system that will service the entire western basin, as well as frontage improvements along Callow and Oak Road. Phase 2 will include the construction of 119 units in the western portion of the site with completion of road frontage improvements along Callow Road and interior trails. Phase 3 will include the construction of 91 units in the eastern central and southern portion of the site with the extension of Oak Road to 109<sup>th</sup>. Phase 4 will include 48 units, associated road improvements, associated storm water detention facility, park area and completion of critical areas mitigation. The proposal also includes extending the sewer up Callow Road.

**Project Location:** The proposed development is generally located south of SR-92, west of Callow Road and north of Oak Road.

**Contact Person:** Roxanne Justice, Planner, (425) 377-3231

**Responsible Official:**   
Rebecca Ableman, SEPA Responsible Official  
Department of Planning and Community Development

**Threshold Determination:** The City of Lake Stevens, acting as lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement is not required under RCW 43.21.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This MDNS is issued

under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.

The mitigation measures adopted with this determination include:

1. Development of the project in accordance with a site plan approved by the Hearings Examiner and in substantial compliance with the site plan submitted as part of the land use application.
2. Issuance of a Certificate of Concurrency under LSMC 14.110.070(b).
3. Payment prior to issuance of a building permit, of a traffic impact mitigation fee as required by LSMC 14.110 and as identified in a traffic impact analysis report prepared for this project. The fee amount will be as determined by the Hearings Examiner as part of Conditional Use Permit approval.
4. Payment of a park mitigation fee in an amount calculated pursuant to LSMC 14.20.080 or LSMC 14.20.090, or land dedication as provided by LSMC 14.120.100.
5. Payment of a school impact mitigation fee in accordance with the Capital Facilities Plan as adopted by the Lake Stevens School District.
6. Compliance with critical area provisions of Title 14 of the Lake Stevens Municipal Code, including wetland, wetland buffering, slope protection, erosion safeguards. Temporary impacts that may occur as a result of construction to on-site and off-site wetland buffers and other critical areas will be restored to the condition that existed prior to development or as indicated on the approved site plan.
7. Development in accordance with a drainage plan and grading plan as approved by the City as part of project approval.
8. Compliance with other elements of Title 14 of the Lake Stevens Municipal Code.

**Comments on the Threshold Determination:** If you would like to comment on this Threshold Determination, your written comments should be sent to the address below by November 1, 2006. The Responsible Official may incorporate any substantial comments into the MDNS. If the MDNS is substantially modified it will be re-issued for further public review.

**Appeals:** You may appeal this mitigated determination of non-significance by submitting an appeal to the address below prior to 5:00 P.M. on November 1, 2006. The appeal must be in written form, contain a concise statement of the matter being appealed and the basic rationale for the appeal. A fee is required per the City's Fee Resolution. Please note that failure to file a timely and complete appeal shall constitute a waiver of all rights to an administrative appeal under City code.

All comments or appeals are to be directed to City Hall, P.O. Box 257, Lake Stevens WA, 98258.

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